UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/2000/NGO/10
10 February 2000

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 11 (c) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: FREEDOM OF EXPRESSION

Written statement* submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 December 1999]

* This written statement is issued, unedited, as received from the submitting non-governmental organization.

The International Federation of Human Rights Leagues (FIDH) and its affiliate, the Vietnamese Committee on Human Rights, are very concerned about the complete absence of freedom of expression in Viet Nam. Censorship is particularly serious in that it is the result of a policy formulated at the highest level of the State and the Vietnamese Communist Party (PCV), despite Viet Nam's accession to the International Covenant on Civil and Political Rights.

The constitutional protection of freedom of expression (art. 69) is impeded by article 4 of the 1992 Constitution, which grants the PCV exclusive leadership of the State and society, and which has primacy over article 69. Indeed, a reading of the Vietnamese Criminal Code shows that the determining factor in charges is first and foremost the danger which the actions in question constitute for the socialist regime. It will therefore be on the basis of the authorities' fears for their privileges and stability that freedom of expression will be assessed in Viet Nam.

In this respect, it has become common knowledge that the vague, all-embracing concept of "national security" is used by Viet Nam to punish the lawful exercise of the right to freedom of expression, as had been predicted by the Working Group on Arbitrary Detention in October 1994, and as was noted by Mr. Abdelfattah Amor, Special Rapporteur on the question of religious intolerance, during his visit in October 1998.

In flagrant breach of article 19 of the Covenant, chapter I of the Vietnamese Criminal Code defines offences against national security. An examination of that chapter shows that the protection of "national security" conceals a whole legal arsenal making the regime untouchable, to the exclusion of any other component of Vietnamese society. Thus, article 74 relating to espionage prohibits "the supplying of information and documents unrelated to State secrets to a foreign Power for use against the interests of the Socialist Republic of Viet Nam"; article 79, relating to "sabotage of the infrastructure of socialism", an extremely vague and obscure charge, permits completely arbitrary action in apprehending "bad elements" opposed to the regime; article 82, on "propaganda against the socialist system", patently prohibits any dissemination of information or opinions deemed harmful to the regime; and articles 92 and 93 (in the name of "national security"), 222 and 223 make it an offence to publish, intentionally or otherwise, State secrets, classified documents or "official secrets".

The eminent dissident Thich Quang Do has once again fallen victim to this legislation after writing to European Union ambassadors in June 1999 in order to ask them to support the cause of human rights and 31 prisoners of conscience at their forthcoming meeting with the Vietnamese authorities the following 28 July. He was arrested and interrogated by the Security Agency in Ho Chi Minh City on 6 August 1999, and accused of violating "national security" through that letter. The following 17 September, while interrogating the dissidents Thich Tue Sy and Thich Khong Tanh, and proud of having "shown the door" to the Special Rapporteur on religious intolerance, the Ho Chi Minh City Security Agency informed them that a warrant for the arrest of Thich Quang Do and themselves had been signed and that they could therefore be imprisoned "at any time".

The "national security" offences carry a wide range of penalties, including long-term imprisonment, life imprisonment and capital punishment. Decree No. 31/CP relating to "administrative detention" of 14 April 1997 added to them the offence of suspected violation of

"national security", establishing a penalty of up to two years' detention without trial for offences against "national security" that were "not serious enough to be punished as a criminal offence" (art. 2), in other words, all acts and deeds by the public.

This mechanism joins three other instruments of repression of freedom of expression: the residence permit (ho khau), an essential document establishing civil rights; the sector police responsible for political control of a particular district (approximately 300 people), who are able to enter the home of any person without authorization of any kind, and issue and withdraw residence permits arbitrarily; compulsory references to political activity, including that of the family, religious affiliation, opinions, etc. in curricula vitae, which will influence candidates' success or otherwise (with a special form for monks comprising the political views before and after 1975 of the person concerned, his family and his acquaintances).

At the same time, the State and the PCV are stepping up control of the press and communication media such as the Internet. In accordance with article 4 of the 1992 Constitution, and despite the existence of over 500 newspapers and magazines, the press remains entirely under State control. In financial terms, nine tenths of publications are dependent on subsidies from the State, and in June 1999 Nguyen Khoa Diem, Minister of Culture and Information, announced the closure of several excessively commercial publications which had neglected "their role of informing the public". He also denounced the tendency of certain newspapers to show "foreign, extravagant and harmful lifestyles", rather than reporting the official policy of the State.

Also in 1999, two eminent dissidents officially requested approval to issue independent publications, but to no avail. General Tran Do, a recent advocate of democratic reforms of the PCV, requested authorization to found a free newspaper but this was refused. A few months later, on 22 September 1999, Thich Quang Do asked the Government to authorize the Unified Buddhist Church of Viet Nam (EBUV, a banned independent Church) to publish a Buddhist monthly entitled "Forum for dialogue and exchange", and to review all legislation incompatible with the Universal Declaration of Human Rights and the Covenant. His request went unanswered.

The Press Act, adopted on 19 May 1999, establishes the responsibility of Vietnamese journalists for their articles, and the compensation and apologies they will have to give to the persons they criticize, even if the facts reported are confirmed (these persons, in accordance with the same Act, do not have to prove the inaccuracy of the information). By this means, the Act forces journalists to exercise self-censorship and renders their investigative work useless. It constitutes an unacceptable violation of freedom of expression and the press, and seems to be intended to protect the reputation of Party leaders. This complaint was voiced by Mrs. Nguyen The Thanh, Vice-President of the Ho Chi Minh City Women's Union: "Many things which should be published are covered up for the sake of the 'protection of the secrets and reputations of the leaders' ... [The leaders] think only of their own interests, and try to extend their privileges and benefit from corruption".

In addition to this "private censorship", State censorship continues with, in recent years, numerous campaigns to mobilize journalists, artists, intellectuals, etc. to promote the Marxist-Leninist revolution. Vo Van Kiet, the former Prime Minister, explained the expulsion

of General Tran Do from the Party, stating that "Party members were not authorized to express views that are not consistent with the Party's policies, which permits all censorship of the Vietnamese press in the hands of the Communist Party.

In practice, however, the FIDH and the Vietnamese Committee on Human Rights have, for some years now, noted that censorship affects all strata of the population, as testified by the ferocious and continuing repression of all forms of peaceful dissent. Nguyen Thanh Giang, a geophysicist, was arrested on 4 March 1999 and detained for two months for possession of "antisocialist documents", and for writing and publishing articles on corruption. In a letter of September 1999, he complained that his children had lost their jobs because of his activities. Thich Tue Sy, Secretary-General of the EBUV, had his computer hard disk confiscated. The same happened to the fax machine belonging to Thich Khong Tanh, who was also sentenced to pay a fine of 2 million dongs in October 1999 (in addition, his telephone line was cut). And following his visit to Thich Huyen Quang, the Patriarch of the EBUV, Thich Khong Tanh was apprehended by the Security Agency on 9 November 1999, interrogated for two days, and forced to undress and surrender all documents that had been entrusted to him by the Patriarch. At the same time, all followers of Thich Khong Tanh were urged by the Security Agency to leave him or to turn informer, and on 3 December 1999 the authorities organized a meeting for the public denunciation of Thich Khong Tanh.

The FIDH and the Vietnamese Committee on Human Rights very strongly denounce the policy, decided at the highest level of the State and the PCV, to suppress freedom of opinion, expression and the press. Recalling that the Socialist Republic of Viet Nam had undertaken to protect and promote the right to freedom of expression, a right from which no derogation may be made, by acceding to the Covenant in 1982, these organizations call on the Commission to lend its full support to the request made by the Special Rapporteur on freedom of expression when he visited Viet Nam three years ago.